

104 KAR 1:030. Recordkeeping and reporting by employers, labor organizations and employment agencies.

RELATES TO: KRS 344.040, 344.060, 344.500

STATUTORY AUTHORITY: KRS 344.250

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes the procedures to be utilized by employers, labor organizations and employment agencies with respect to the maintenance and preservation of employment records and employment reports.

Section 1. Definition. (1) "Records relevant to the determination" means all:

- (a) Personnel or employment records relating to the complainant and other employees holding positions similar to that held or sought by the complainant;
 - (b) Application forms or test papers completed by the complainant and of other applicants for the same position; and
 - (c) Personnel or employment records relating to the complainant.
- (2) "Final disposition of the complaint" means the expiration of the statutory period within which the complainant may appeal an administrative order or commence a judicial action.

Section 2. Employer Information Report. (1) Upon receipt of a complaint of employment discrimination, an employer shall provide a current employer information report.

(a) The report shall include a workforce breakdown of the employers' temporary and permanent employees within the Commonwealth of Kentucky.

(b) The report shall contain a breakdown of the employers' workforce by:

- 1. Race;
- 2. Age;
- 3. National origin; or
- 4. Sex.

(c) An employer may acquire the information necessary for completion either by:

- 1. Visual surveys; or
- 2. By the maintenance of postemployment records.

(d) Postemployment records which identify employees by race, color, religion, disability, age, national origin or sex shall be kept separately from personnel records available to those responsible for personnel decisions.

(2) An employer may substitute a comparable federal government employer information report.

(3) If the comparable government employer information report does not provide a current workforce breakdown descriptive of employees actual job categories, the employer shall update or modify the information contained in the report.

Section 3. Preservation of Records Made or Kept. (1)(a) A personnel or employment record, made or kept by an employer, shall be preserved by the employer for a period of one (1) year from the date of the:

- 1. Making of the record; or
- 2. Personnel action involved, whichever occurs later.

(b) These records shall include:

- 1. Requests for reasonable accommodation;
- 2. Application forms; and
- 3. Other records related to:
 - a. Hiring;
 - b. Promotion;

- c. Demotion;
- d. Transfer;
- e. Lay-off;
- f. Termination; and
- g. Terms of compensation.

(2) Upon receipt of a complaint of discrimination, the respondent employer shall preserve all employee personnel records relevant to the determination until final disposition of the complaint. (HR-3; 1 Ky.R. 237; eff. 1-8-75; Am. 18 Ky.R. 2867; 3183; eff. 4-14-92; 19 Ky.R. 2082; 2392; eff. 5-10-93.)